IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

Crl.MC.No. 2872 of 2007()

AGAINST THE ORDER DATED 09/01/2007 IN CMP 4093/2006 IN CMP.3683/2006 of JUDL.MAGISTRATE OF FIRST CLASS COURT, PAYYANNUR

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PETITIONER:

M/S.SRIRAM TRANSPORT FINANCE
COMPANY LTD., KANNUR

BY ADV. SRI.P.SANJAY
SRI.A.PARVATHI MENON

RESPONDENTS:

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1. LINO MANUEL
S/O. MANI, CHERUPUZHA,
KANNUR DIST.

2. STATE OF KERALA REP: BY THE
S.I. OF POLICE, PERINGOURE POLICE STATION,
KANNUR

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2872 of 2007

Dated this the 12th day of September 2007

O R D E R

The petitioner claims to be the financier who has some interest in the vehicle owned and possessed by the registered owner, the first respondent herein. The petitioner had filed a complaint and a crime was registered on such complaint. In that, it was alleged that a hypothecation agreement in favour of another financier was got cancelled by the registered owner fraudulently. The vehicle was seized from the possession of the registered owner. Before the court, the registered owner as well as the petitioner staked claims for interim release of the vehicle. The learned Magistrate, by the impugned order (a copy of which is produced as Annexure A) directed that the vehicle be released to the registered owner, the first respondent. In coming to that conclusion, the learned Magistrate took note of the fact that the first respondent herein is the registered owner. The learned Magistrate further took note of the fact that the seizure was effected from the possession of the registered owner, the first respondent. The learned Magistrate also noted that there is no endorsement of hire purchase in the registration certificate

which was current.

2. In the light of the above circumstances, I find absolutely nothing wrong in the impugned order under which the registered owner, from whose possession the vehicle was seized, has been permitted to continue to be in possession of the vehicle during the pendency of investigation/trial subject to adequate safeguards. The impugned order, according to me, does not suffer from any vice which would justify the invocation of the extraordinary inherent jurisdiction to interfere with the same.

3. If the petitioner has a grievance that any civil right of his has been infringed, the option of the petition to go before the civil court and establish his rights and claim interim possession of the vehicle shall not in any way be fettered by the order passed under Section 451 Cr.P.C. The petitioner can certainly move the civil court and get his rights established.

4. With the above observation, this Criminal Miscellaneous Case is dismissed.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007